

FIRST AMENDED AND RESTATED
DECLARATION OF COVENANTS AND RESTRICTIONS

WOODCREEK SECTION NINE
(A RESIDENTIAL SUBDIVISION)
GOVERNED BY SHADOWCREST HOMEOWNERS ASSOCIATION, INC

THE STATE OF TEXAS)
)
COUNTY OF BRAZOS)

This Amended and Restated Declaration of Covenants and Restrictions is made on the date hereinafter set forth by the Shadowcrest Homeowners Association, Inc., on behalf of sixty-seven percent (67%), or more, of the property owners of the properties described as WOODCREEK, SECTION IX, an addition to the City of College Station, Texas, according to plat recorded in Volume 3079, Page 201, Official Records of Brazos County, Texas as evidenced by the signatures of the homeowners which are attached as Exhibit "A" to this Declaration.

AGREEMENT:

NOW, THEREFORE, the Owners hereby covenant, agree, and declare that the Property shall be owned, held, transferred, leased, sold, conveyed, and occupied subject to the covenants, conditions, restrictions, easements, liens, and charges set forth in this Declaration, as amended from time to time pursuant to the terms hereof, which covenants, conditions, restrictions, easements, liens, and charges shall be covenants running with the land and shall be a burden and a benefit to any persons acquiring or holding any interest in all or any portion of the Property, their grantees, successors, heirs, executors, administrators, legal representatives and assigns.

ARTICLE I.

DEFINITIONS

The following words, when used in this Declaration shall, unless the context shall otherwise clearly indicate or prohibit, have the following meanings:

Section 1.01 "Architectural Review Committee" or the "Committee" shall mean and refer to that Committee composed of three (3) members appointed in the manner set forth in this Declaration, which Committee is appointed to provide for architectural control and approval within the Property and to have and exercise such other power and/or duties as are more specifically set forth in this Declaration.

Section 1.02 "Articles of Incorporation" shall mean and refer to the Articles of Incorporation of the Association, as the same may from time to time be duly amended.

Section 1.03 "Assessments" shall mean and refer to the assessments and charges described in Article IV of this Declaration.

Section 1.04 "Association" shall mean a Texas non-profit corporation organized under the name of Shadowcrest Homeowners' Association, Inc. The Association shall be the entity responsible for collecting

and disbursing the assessments and charges hereinafter created pursuant to this Declaration, enforcing the covenants and restrictions hereinafter set forth, and establishing and directing the enforcement of the architectural controls by and through the Architectural Review Committee, and maintaining and administering community properties and facilities on the Property as set forth herein.

Section 1.05 "Board" or "Board of Directors" shall mean and refer to the Board of Directors of the Association.

Section 1.06 "Bylaws" shall mean and refer to the Bylaws of the Association as the same may from time to time be duly amended.

Section 1.07 "Certificate of Compliance" shall mean and refer to that certificate issued to an Owner stating that such Owner has complied with and satisfied the procedures set forth herein with respect to review and approval by the Architectural Review Committee of improvements constructed by such Owner on any Lot.

Section 1.08 "Certificate of Occupancy" shall mean and refer to any required certification issued by relevant governmental authorities as prerequisite to the occupancy of all or any portion of any Lot or the improvements thereon.

Section 1.09 "Common Area" shall mean and refer to all real property, including, without limitation, any private storm drains, private floodwater detention areas, private streets, private utilities, private parks, open space, trails and flood ways owned in fee, owned as an easement, leased or maintained from time to time by the Association for the common use, enjoyment and benefit of the Members of the Association, together with all improvements thereon, and all easements granted to the Association for the common use, enjoyment and benefit of the Members of the Association. The Common Area shall specifically include, without limitation, any areas so designated on the final plat for the Property or any portion thereof.

Section 1.10 "Declaration" shall mean and refer to this Amended and Restated Declaration of Covenants, Conditions and Restrictions for Woodcreek Section Nine, together with all exhibits, amendments and supplements thereto.

Section 1.11 "Design Guidelines" shall mean and refer to the standards, restrictions or specifications published from time to time by the Architectural Review Committee and governing the construction, placement, location, alteration, maintenance or design of improvements to the Property.

Section 1.12 "Estate" shall mean and refer to a Tract, Lot or any other interest in real property contained within the Property, the ownership of which, by the terms of this Declaration, causes the owner thereof to be a Member of the Association.

Section 1.13 "Lot" shall mean and refer to any lot, plot, parcel or tract of real estate shown on any recorded subdivision, map or plat, as amended from time to time, to the extent such lot, plot, parcel or tract is a part of the Property, which is designated as a lot therein, and which is or will be improved with a single family residential dwelling; provided, however, the term "Lot" shall not include any portion of the Common Area or any real property owned by or leased to the Association for the common use and enjoyment of the Members.

Section 1.14 "Member" shall mean and refer to every Owner of a Lot which is subject to an assessment. The Members make up the body of the Association. Membership is appurtenant to and may not be separated from ownership of any Lot which is subject to an assessment.

Section 1.15 "Owner" shall mean and refer to the record owner, whether one or more persons or entities of the fee simple title to any Lot situated upon the Properties, but notwithstanding any applicable theory of mortgages, shall not mean or refer to any mortgagee unless and until such mortgagee has acquired title to one or more lots pursuant to foreclosure or any proceeding in lieu of foreclosure. References herein to the "Owners" in "The Subdivision" shall mean and refer to owners as defined in this declaration and all supplemental declarations.

Section 1.16 "Property" shall mean and refer to WOODCREEK, SECTION IX, an addition to the City of College Station, Texas, according to plat recorded in Volume 3079, Page 201, Official Records of Brazos County, Texas, including any and all improvements thereon.

Section 1.17 "Residential Use" shall mean and refer to single-family housing uses, but shall not include apartments, condominiums, duplexes, prefabricated housing, mobile homes, hotels, motels, boarding houses, or lodges.

Section 1.18 "Tract" shall mean and refer to unsubdivided, improved or unimproved land within the Property, developed or to be developed for Residential Use. The term "Tract" shall not include land which is encompassed within a Lot or which comprises part of the Common Area.

ARTICLE II

PROPERTY

Section 2.01 Property Subject to Declaration. The Property and any right, title, or interest therein occupied by Declarant and any subsequent owner, lessee, or occupant of all or any part thereof, shall be subject to this Declaration and the covenants, conditions, restrictions, easements, liens, and charges herein set forth, which covenants, conditions, restrictions, easements, liens, and charges shall be covenants running with the land and shall be a burden and a benefit to Declarant and Its successors, legal representatives, and assigns, and any persons acquiring or holding any Interest In all or any portion of the Property, their grantees, successors, heirs, executors, administrators, legal representatives and assigns.

Section 2.02 Owner's Easement of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;

(b) the right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations;

(c) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed by Members. No such dedication or transfer shall be effective unless an instrument signed by two-third (2/3rds) of the Members agreeing to such dedication or transfer has been recorded.

Section 2.03. Delegation of Use. Any owner may delegate in accordance with the Bylaws, his right of enjoyment to the Common Area and facilities to the members of his Family, his tenants, or contract purchasers who reside on the Property.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 3.01 Membership. Each and every Owner shall automatically be a Member of the Association without the necessity of any further action on such Owner's part, subject to the terms of this Declaration, the Articles of Incorporation, and the Bylaws. Membership of an Owner in the Association shall be appurtenant to and may not be separated from the Interest of such owner in and to any portion of the Property. Ownership of any portion of the Property shall be the sole qualification for being a Member; provided, however, a Member's voting rights, as herein described, or privileges in the Common Area or both may be regulated or suspended as provided in this Declaration.

Section 3.02 Transfer. Membership of an Owner in the Association may not be severed from or in any way transferred, pledged, mortgaged, or alienated except upon the sale or assignment of said Owner's Interest in all or any part of the Property and then only to the purchaser or assignee as the new owner thereof. Such membership shall not be severed by or in connection with the encumbrance by an Owner of all or any part of the Property. Any attempt to make a prohibited severance, transfer, pledge, mortgage, or alienation of an Owner's membership in the Association shall be void and of no further force or effect. Any transfer of the fee title to a lot, tract, or parcel of real estate out of or a part of the Property shall automatically operate to transfer membership in the Association to the new owner thereof. In the event an Owner should fail to refuse to transfer the membership in the Association registered in such Owner's name to the transferee of such Owner's Interest in all or any part of the Property, the Association shall nonetheless have the right to record the transfer upon the books and records of the Association.

Section 3.03 Classes of Membership and Voting Rights. The Association shall have one (1) class of voting membership:

CLASS A MEMBERSHIP. Class A Members shall be all of the respective Members of the Association.

Class A members shall be entitled to one (1) vote for each Lot in the Subdivision in which they hold the interest required for membership by this Declaration or any Supplemental Declaration.

Section 3.04 Suspension of Voting Rights. The voting rights of any Member set forth in this Declaration may be suspended by the Board of Directors of the Association for any period during which any Assessment owed by such Member remains past due.

Section 3.05 Multiple Owner Votes. Votes hereunder may not be cast on a fractional basis between multiple Owners of an Estate. Further, where there are multiple owners of an Estate, it is not intended by Section 3.03 that each of said Owners shall be entitled to cast the votes allocated to such Estate. When more than one person or entity owns the interest or interests in and to any Estate as required for membership in the Association, each and every such person or entity shall be a Member, and the vote for any Estate shall be exercised as they, among themselves, collectively determine. If such owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall forfeit the vote or votes on the matter in question. If more than one (1) person or entity purports to exercise the voting rights with respect to any Estate on any matter in question, none of such votes attributable to such Estate shall be

counted in tabulating the vote on such matter, and such votes shall be deemed void. The Association shall not be required to recognize the vote or written assent of any such multiple owners except the vote or written assent of the Owner designated in writing executed by all of such multiple owners and delivered to the Association.

Section 3.06 Quorum, Notice, and Voting Requirements. Except as specifically set forth in this Declaration, notice, voting and quorum requirements for all action to be taken by the Association shall be consistent with its Articles of Incorporation and Bylaws, as same may be amended from time to time.

ARTICLE IV

ASSESSMENTS

Section 4.01 Covenants for Assessments. Each Owner of any Lot, Tract or parcel of real estate out of or a part of the Property by acceptance of a deed or other conveyance document creating in such owner the interest required to be deemed an Owner, whether or not it shall be so expressed in any such deed or other conveyance document, shall be deemed to covenant and agree (and such covenant and agreement shall be deemed to constitute a portion of the consideration and purchase money for the acquisition of such Lot, Tract or parcel of real estate out of or a part of the Property), to pay to the Association (or to any entity or collection agency designated by the Association): (1) annual assessments or charges (as specified in Section 4.03 of this Article IV), such assessments to be fixed, established and collected from time to time as herein provided; (2) special assessments for capital improvements and other purposes (as specified in Section 4.04 of this Article IV), such assessments to be fixed, established and collected from time to time, as herein provided; and (3) individual special assessments levied against individual Owners to reimburse the Association for extra costs incurred by the Association for maintenance and repairs caused by the willful or negligent acts or omissions of an individual owner and not caused by ordinary wear and tear (as specified in Section 4.05 of this Article IV), such assessments to be fixed, established and collected from time to time as herein provided. The assessments described in (1), (2) and (3) of the immediately preceding sentence (which shall, individually and collectively constitute the "Assessments"), together with interest thereon, attorneys' fees, court costs and other costs of collection thereof, as herein provided, shall be a charge on the land and shall be a continuing lien upon each Estate against which each such Assessment is made. Each such Assessment, together with interest thereon, attorneys' fees, court costs and other costs of collection thereof, as herein provided, shall also be the personal obligation of the Owner of such Estate against which such Assessment is made at the time when such Assessment fell due. No Owner may exempt himself from liability for such Assessments or waive or otherwise escape liability for the Assessments for non-use of the Common Area or abandonment of their Estate. The personal obligation to pay any such Assessments, together with Interest thereon, attorneys' fees, court costs and other costs of collection thereof, as herein provided, shall pass to the successors in title of such Owner whether or not expressly assumed in writing by such successors; provided that such personal obligation with respect to any Assessments and other costs and charges arising prior to the date of any Judicial or non-Judicial foreclosure of any bona fide mortgage or deed of trust shall not pass to mortgagees of such owner who succeed to the title of such owner, by virtue of such Judicial or non-Judicial foreclosure; however, any such mortgagee shall have a personal obligation to pay any Assessments or other costs or charges arising on or after the date of such foreclosure.

Section 4.02 Purpose of Assessments. The Assessments levied by the Association shall be used, in part, for the purpose of: (1) promoting the recreation, comfort, health, safety and welfare of the Members of the Association and/or the residents of the Property; (2) managing the Common Area; (3) enhancing the quality of life in the Property and the value of the Property, and in particular for the improvement and maintenance of the properties, services and facilities devoted and related to the use and enjoyment of the Property including, but not limited to, the payment of taxes on the Common Area and insurance in connection with the Common Area and the repair, replacement and addition of improvements thereto; (4)

for paying the cost of labor and equipment (including the expense of leasing any equipment) with respect to the Common Area; (5) for carrying out the powers and duties of the Board of Directors of the Association as set forth in this Declaration and in the Articles of Incorporation and Bylaws, including, without limitation, the purchase of insurance coverage pursuant to Article V hereof; (6) for paying any assessments or charges which may be payable by the Owners or the Association to any master association, pursuant to any declaration or restrictive covenants covering the Property as of the date this Declaration is first recorded in the Real Property Records of Brazos County, Texas; and (7) for carrying out the purposes of the Association, as stated in the Articles of Incorporation.

Section 4.03 Annual Assessments. The maximum annual assessment shall be Three Hundred Eighty and No/100 Dollars (\$380.00) per Lot.

A. The amount of the maximum annual assessment will be reviewed by the Board of Directors annually and may be revised beginning on January 1 of each year, provided however, the maximum annual assessment may not be increased more than 10% above the maximum annual assessment for the previous year without a vote of two-thirds (2/3rds) of the Members who are entitled to vote and who may vote, either in person or by proxy, at a meeting duly caused for this purpose.

B. If the maintenance charge and assessment is not increased to the maximum allowed hereunder for any year, then in any subsequent year the maintenance charge and assessment may be increased to the maximum allowable for such subsequent year as if the maintenance charge and assessment had been increased to the maximum allowable for each and every year.

C. The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 4.04 Special Assessments. In addition to the annual assessments authorized by Section 4.03 of this Article IV, the Association may levy in any calendar year a special assessment for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction following acceptance of Common Area by the Association, unexpected repair or replacement of a capital improvement upon the Common Area, including the necessary fixtures and personal property related thereto, or for maintenance of portions of the Common Area and improvements thereon or for carrying out other purposes of the Association as stated in the Articles of Incorporation of the Association; provided, that, any such special assessment levied by the Association shall have the affirmative approval of the Members of the Association, as provided in section 4.06.

Section 4.05 Special Individual Assessments. Upon the affirmative majority vote of the Board of Directors of the Association, the Association may levy special assessments against individual Owners for: (i) reimbursement to the Association for repairs to the Common Area or improvements thereto, occasioned by the willful or negligent acts of such Owner(s), or the guests or Invitees of such Owner(s), and not the result of ordinary wear and tear; and/or (ii) for payment of fines, penalties or other charges imposed against an individual or separate Owner relative to such Owner's failure to comply with the provisions of this Declaration, the Bylaws of the Association or any rules or regulations promulgated hereunder, which, if curable and do not pose a threat to public health or safety, are not cured by the Owner within 30 days after notice of the violation, including a description of the violation and the amount due, and including, without limitation, any costs and charges which are payable by such Owner pursuant to Section 11.02 hereof; and/or (iii) for payment or reimbursement of costs, expenses and attorneys' fees incurred by the Association in enforcing the provisions of this Declaration, the Bylaws of the Association or any rules and regulations promulgated hereunder with respect to such Owner or the portions of the Property owned by such Owner. In addition to the opportunity to cure any violation of this Declaration or the Bylaws of the Association, if applicable, the Owner has the right to submit a written request for a hearing to discuss and verify facts and resolve the matter in issue before the Board. Additional fines may be assessed every 30 days for continuing

violations that are not cured after receipt of the initial notice. The Board of Directors shall adopt a fine schedule for various violations of this Declaration, which schedule may be amended by majority vote of the Board. The initial fine shall be \$25.00 for each violation.

Section 4.06 Vote Required for Special Assessment. Any special assessment levied by the Association in accordance with Section 4.04 of this Article IV must be approved by Members holding at least sixty-seven percent (67%) of the votes of all Members, determined in accordance with Section 3.03 hereof. Written notice of any meeting called for the purpose of taking any action authorized under Sections 4.03 or 4.04 shall be sent to all Members not less than 30 days nor more than 45 days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 4.07 Date of Commencement of Annual Assessments and Due Date of Assessments. The annual assessments provided for in this Declaration shall commence as to the Property on a date established by the Board of Directors which is no later than sixty (60) days after the date upon which record title to any Lot is transferred by Declarant to any person or party; and each such assessment or any installment thereof (if payable in installments) shall be considered delinquent if not paid within thirty (30) days after such assessment or any installment thereof is stated to be due and payable. The annual assessments for any calendar year after the year ending December 31, 1998, shall become due and payable on January 1 of such calendar year, and such assessment or any installment thereof (if payable in installments) shall be considered delinquent if not paid within thirty (30) days after such assessment or any installment thereof is stated to be due and payable. Notwithstanding the foregoing, the Board of Directors of the Association may, from time to time, at its election, provide that annual assessments levied by such Board be payable in monthly, quarterly, or semi-annual installments, or in single annual installments.

The due date of any special assessment or special individual assessment under Sections 4.04 or 4.05 of this Article IV, respectively, shall be fixed by the Board of Directors of the Association.

Section 4.08 No Offsets. All Assessments shall be payable in the amount specified by the Association and no offsets against such amount shall be permitted for any reason.

Section 4.09 Reserves. The annual assessments shall include reasonable amounts as determined by the Board of Directors of the Association as reserves for the future periodic maintenance, repair and/or replacement of all or a portion of the Common Area and the improvements thereon. All amounts collected as reserves, whether pursuant to this Section or otherwise, shall be held in trust for the purposes for which they were collected. Assessments collected as reserves shall not be considered to be advance payments of regular assessments.

Section 4.10 Nonpayment of Assessments.

(a) Delinquency. Any Assessment provided for in this Declaration which is not paid in full on or before the date ("delinquency date") which is thirty (30) days after the date upon which such Assessment first became due and payable shall be deemed delinquent. The Association shall have the right to reject partial payment of an Assessment and demand full payment thereof. If any Assessment or part thereof is not paid on or before the delinquency date, the unpaid amount of such Assessment shall bear interest from the delinquency date until paid at a rate equal to the lesser of eighteen percent (18%) per annum or the maximum lawful rate. Acceptance by the Association of

partial payment of any Assessment shall not be deemed to constitute a waiver or forgiveness of the unpaid portion of such Assessment.

(b) Lien. The unpaid amount of any Assessment shall, together with the interest thereon as provided in Section 4.10(a) of this Article IV and the cost of collection thereof, including reasonable attorneys' fees, as herein provided, constitute a continuing lien and charge on the Estate of the non-paying Owner subject to such Assessment, which shall bind such Estate in the hands of the owner, and their heirs, executors, administrators, devisees, personal representatives, successors and assigns. The aforesaid lien shall be superior to all other liens and charges against the said real property, except only for tax liens and the lien of any bona fide first lien mortgage or first lien deed of trust upon said real property; provided, however, that any such mortgage or deed of trust shall be subject and inferior to the lien securing those past due Assessments for which a written notice of past due Assessments has been recorded in the Real Property Records of Brazos County, Texas at the time such mortgage or deed of trust is filed of record. The Association shall have the power to subordinate the lien securing the payment of any Assessment levied by the Association to any other lien. Such power shall be entirely discretionary with the Association. As hereinbefore stated, the personal obligation of the owner, at the time of such Assessment, to pay such Assessment shall remain the personal obligation of such Owner and may pass to such Owners successors in title whether or not expressly assumed by them in writing, as set forth in Section 4.01 hereinabove. The lien for the unpaid Assessments shall be unaffected by any sale or assignment of an Estate and shall continue in full force and effect. Such a sale shall not relieve the Owner of such real property from liability for an Assessment thereafter becoming due nor from the lien of any such subsequent Assessment.

To give notice of the aforesaid lien, the Association shall prepare a written notice of lien setting forth the amount of the unpaid indebtedness, the name of the Owner of the real property covered by such lien, as shown on the records of the Association, and a description of the Estate covered by such lien. Such notice shall be executed by one of the officers of the Association and shall be recorded in the Real Property Records of Brazos County, Texas

(c) Remedies. The lien securing the payment of the Assessments shall attach to the Estate belonging to the non-paying Owner. The Association may institute an action at law against the owner or owners personally obligated to pay the Assessment and/or for the foreclosure of the aforesaid lien by judicial foreclosure. In any foreclosure proceeding the Owner shall be required to pay the costs, expenses and reasonable attorneys' fees incurred by the Association in connection therewith. In the event an action at law is instituted against the Owner or the Owners personally obligated to pay the Assessment, there shall be added to the amount of any such Assessment the interest provided in this Section 4.10, the costs of preparing and filing the complaint in such action and the reasonable attorneys' fees incurred in connection with such action; and in the event a judgment is obtained, such judgment shall include interest on the Assessment as provided in this Section 4.10 and a reasonable attorneys' fee to be fixed by the court, together with the costs of the action. Each Owner vests in the Association and its assigns the right and power to bring all actions at law or in equity (including, without limitation, an action in foreclosure) against such Owner or other Owners for the collection of such delinquent Assessments.

Section 4.11 Exempt Property. The following property subject to the Declaration shall (except as hereinafter provided) be exempt from the Assessments, charges and liens created in this Declaration:

- (a) All properties dedicated and accepted by the local public authority, public utilities and property devoted to public use, including, but not limited to any and all property owned by any school district;

(b) All Common Area; and

(c) All portions of the Property owned by Declarant and designated as private or public open space pursuant to the applicable zoning plan or development plan therefor, as the same may exist from time to time.

Portions of the Property which are exempt from the Assessments, charges and liens created by this Declaration pursuant to this Section 4.11 shall in any event be subject to all other provisions of this Declaration including, but not limited to, the use restrictions and protective covenants of Articles VIII and IX hereof and provisions for special individual assessments as set forth herein. Owners of portions of the Property which are exempt pursuant to this Section 4.11 shall be Members of the Association but shall have no voting rights in the Association with respect to ownership of such exempt portions of the Property.

Section 4.12 Estoppel Information from Board of Directors with Respect to Assessment. The Board of Directors of the Association shall upon written request, and upon receipt of a description of the portions of the Property owned by an Owner, furnish to such owner, a certificate in writing signed by an officer of the Association, setting forth whether an Assessment attributable to such portion of the Property has been paid. Such certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid. A reasonable charge may be made by the Board of Directors for the issuance of such certificates.

ARTICLE V

GENERAL POWERS AND DUTIES OF THE BOARD OF DIRECTORS OF THE ASSOCIATION

Section 5.01 Powers and Duties. The affairs of the Association shall be conducted by the Board of Directors of the Association. The Board of Directors shall be selected in accordance with the Articles of Incorporation and the Bylaws. In addition to the powers and duties enumerated in the Articles of Incorporation and the Bylaws, or elsewhere provided for herein, and without limiting the generality hereof, the Board of Directors for the mutual benefit of the Members of the Association, shall have the following powers and/or duties:

(a) If, as and when the Board of Directors, in its sole discretion, deems necessary, it may take such action to enforce the terms and provisions of this Declaration, the Articles of Incorporation and/or the Bylaws by appropriate means and carry out the obligations of the Association hereunder, including without limitation, the expenditure of funds of the Association, the employment of legal counsel, the engagement of accounting services and management services, the commencement of legal causes of action, the promulgation and enforcement of the Association rules (herein so-called) which may include the establishment of a system of fines and/or penalties enforceable as special individual assessments as provided in Section 4.05 of Article IV of this Declaration, and to enjoin and/or seek legal damages from any Owner for violation of such provisions or rules;

(b) To acquire, maintain in good repair and condition (reasonable wear and tear and damage from casualty excepted), and otherwise manage the Common Area and all facilities, improvements and landscaping thereon, and all personal property acquired or owned by the Association;

(c) To execute all declarations of ownership for tax assessment purposes and to pay any and all real property taxes and other charges or assessments assessed against the Common Area

and real and personal property owned by the Association, unless the same are separately assessed to all or any of the Owners;

(d) To obtain, for the benefit of the Common Area, all water, gas and electric services, refuse collections, landscape maintenance services and other services, which in the opinion of the Board of Directors shall be necessary or proper;

(e) To make such dedications and grant such easements, licenses, franchises or other rights which in its opinion are necessary or desirable for street, right-of-way, utility, sewer, drainage and other similar facilities or video services, cable television services, security services, communication services and other similar services over the Common Area to serve the Property or any part thereof;

(f) To contract for and maintain such policy or policies of insurance as may be required by this Declaration or as the Board of Directors deems necessary or desirable in furthering the purposes of and protecting the Interest of the Association and its Members;

(g) To borrow funds to pay costs of operation secured by assignment or pledge of its rights against delinquent Owners to the extent deemed advisable by the Board of Directors;

(h) To enter into contracts for legal, management and accounting services, maintain one or more bank accounts, and generally, to have the powers necessary or incidental to the operation and management of the Association and the Common Area;

(i) To enter into purchase agreements or leases on behalf of the Association for the acquisition or lease of equipment, fixtures, furniture, statues and other works of art, and other items of personal property in connection with the operation and management of the Association, the enhancement of the Common Area or the general benefit of the Members;

(j) If, as and when the Board of Directors, in its sole discretion, deems necessary, it may take action to protect or defend the Common Area or other property of the Association from loss or damage by suit or otherwise;

(k) To sue and defend in any court of law on behalf of the Association or one (1) or more Members thereof;

(l) To establish and maintain a working capital and/or contingency fund in an amount to be determined by the Board of Directors;

(m) To make reasonable rules and regulations for the operation and use of the Common Area and to amend same from time to time; provided, however, that any rule or regulation may be amended or repealed by an instrument in writing signed by Members who hold at least fifty-one percent (51%) of the votes of all Members, determined in accordance with Section 3.03 hereof;

(n) To adjust the amount, collect and use any insurance proceeds to repair damage to or replace loss of property owned by the Association, and if the proceeds are insufficient to repair damage to or replace loss of property owned by the Association, to assess the Members in proportionate amounts to cover the deficiency as set forth in Section 4.04 hereof;

(o) To provide services for the benefit of Members, that may include but not be limited to, security, entertainment, recreation, education and cable television;

(p) To delegate its powers and duties to committees, officers, agents or employees, employ a manager or other persons and contract with independent contractors or managing agents who have professional experience to perform all or any part or the duties and responsibilities of the Board of Directors, provided that any contract with a person or entity appointed as a manager or managing agent, with respect to any time after the Conversion Date, shall have a term of not more than one (1) year with successive one (1) year renewal periods upon the mutual agreement of the parties; and

(q) To negotiate and to enter into on behalf of the Association, agreements with other homeowners' associations (including, without limitation, any master association which now or hereafter has Jurisdiction over the Property, the Common Area (or any portions thereof)) to provide for (i) shared or coordinated administration of the Property or the Common Area (or any portions thereof) with property or common areas owned or administered with such other homeowners' association or master association, including, without limitation, agreements providing for conveyance of all or a portion of the Common Area to any such master association and the subsequent care and administration of such portion of the Common Area by such other homeowners' association or master association, all upon such terms as the Board of Directors shall determine, or (ii) merger of the Association in such other homeowners' association or master association, upon such terms as the Board of Directors shall determine.

ARTICLE VI

PROPERTY RIGHTS IN THE COMMON AREA

Section 6.01 Members' Easements of Enjoyment. Subject to the provisions of section 6.02 of this Article VI, every Member shall have a right and easement of use and enjoyment in and to the Common Area and such easement shall be appurtenant to and shall pass with the title to every Estate which comprises a portion of the Property, PROVIDED, HOWEVER, such easement shall not entitle any Member to make alterations, additions or Improvements to the Common Area.

Section 6.02 Extent of Members' Easements. The Members' rights and easements of enjoyment created hereby with respect to the Common Area shall be subject to the following:

(a) The right or the Association to prescribe regulations governing the use, operation and maintenance of the Common Area;

(b) The right of the Association to enter into and execute contracts with third parties (including the Declarant, or affiliates of the Declarant, so long as such contracts do not provide for compensation to the Declarant, or its affiliates, which exceeds compensation which would be paid to an independent third party for such services) for the purpose of providing maintenance or such other materials or services consistent with the purposes of the Association;

(c) The right of the Association to take such steps as are reasonably necessary to protect the Common Area against judgment or foreclosure; and

(d) The rights of the Board of Directors pursuant to Section 5.01(q).

Section 6.03 Liens. Notwithstanding anything to the contrary contained herein, in no event shall the Association (acting through its Board of Directors or otherwise) place or consent to the placement of any lien or security interest on all or any portion of the Common Area.

ARTICLE VII

INSURANCE: REPAIR AND RESTORATION

Section 7.01 Insurance. The Board of Directors or its duly authorized agent shall have the authority to and shall obtain insurance for all insurable improvements on the Common Area. This insurance shall cover loss or damage by fire or other hazards, including extended coverage, vandalism, and malicious mischief and shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard.

The Board of Directors may, at its option, obtain a public liability policy applicable to the Common Area covering the Association and its Members for all damage or injury caused by or incurred as a result of the negligence or misconduct of the Association or any of its directors, officers, Members or agents. Such public liability policy, if obtained by the Board of Directors, shall be in such amount as the Board of Directors shall determine.

Premiums for all insurance shall be common expenses of the Association. The policies may contain a reasonable deductible, and the amount thereof shall be added to the face amount of the policy in determining whether the insurance at least equals the full replacement cost.

All such insurance coverage obtained by the Board of Directors shall be written in the name of the Association, as trustee, for the respective benefitted parties, as further identified in subparagraph (b), below. Such Insurance shall be governed by the provisions hereinafter set forth:

(a) All policies shall be written with a reputable company licensed to do business in Texas.

(b) All policies shall be for the benefit of the Owners and their mortgagees, as their interests may appear.

(c) Exclusive authority to adjust losses under policies obtained by the Association shall be vested in the Board of Directors; provided, however, no mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

(d) In no event shall the insurance coverage obtained and maintained by the Board of Directors hereunder be brought into contribution with insurance purchased by individual Owners, occupants, or their mortgagees, and the insurance carried by the Association shall be primary.

(e) All casualty insurance policies shall have an Inflation guard endorsement, if available on a commercially reasonable basis, and an agreed amount endorsement with an annual review by one or more qualified persons, at least one of whom must be in the real estate industry and familiar with construction in the Brazos County, Texas, area.

(f) The Board of Directors shall be required to make reasonable efforts to secure insurance policies which include or provide as follows:

(i) a waiver of subrogation by the insurer as to any claims against the Association's Board of Directors, its manager, the Owners and their respective tenants, servants, agents, and guests, if available on a commercially reasonable basis;

(ii) a waiver by the insurer of its rights to repair and reconstruct instead of paying cash;

(iii) no policy may be canceled, invalidated, or suspended on account of the actions or omissions of any one or more individual Owners;

(iv) no policy may be cancelled, invalidated, or suspended on account of any defect or the conduct of any director, officer, or employee of the Association or its duly authorized manager without prior written demand to the Association to cure the defect or to cease the conduct and the allowance of a reasonable time thereafter within which a cure may be effected by the Association, its manager, any owner or mortgagee;

(v) any "other insurance" clause in any policy shall exclude individual Owners' policies from consideration; and

(vi) no policy may be cancelled or substantially modified without at least twenty (20) days' prior written notice to the Association.

In addition to the other Insurance required by this Section 7.01, the Board of Directors shall obtain worker's compensation insurance, if and to the extent necessary, to satisfy the requirements of applicable laws, and may, at its option, obtain a fidelity bond or bonds on directors, officers, employees, and other persons handling or responsible for the Association's funds in such amount as the Board of Directors may determine. Bonds shall contain a Waiver of all defenses based upon the exclusion of persons serving without compensation and shall, to the extent reasonably obtainable, contain a provision that such bonds may not be cancelled or substantially modified without at least twenty (20) days' prior written notice to the Association. The Board of Directors of the Association may obtain directors and officers liability insurance covering the officers of the Association and the members of the Board of Directors of the Association in such amounts and upon such terms as the Board of Directors of the Association may, in its reasonable discretion, determine, and the premiums for such insurance shall be a common expense of the Association.

Section 7.02 Insurance Proceeds. Proceeds of Insurance shall be disbursed by the insurance carrier to the Association or contractors designated by the Association as the Board of Directors may direct. The Association shall use the net Insurance proceeds to repair and replace any damage or destruction of property, real or personal, covered by such Insurance. Any balance from the proceeds of insurance paid to the Association remaining after satisfactory completion of repair and replacement, shall be retained by the Association as part of a general reserve fund for repair and replacement.

Section 7.03 Insufficient Proceeds. If the insurance proceeds are insufficient to repair or replace any loss or damage to the Common Area or the Improvements thereon or appurtenant thereto, the Association may levy a special assessment as provided for In Article IV of this Declaration to cover the deficiency. If the Insurance proceeds are Insufficient to repair or replace any loss or damage for which an Owner is bound hereunder, such Owner shall, as his sole and undivided responsibility, promptly pay any excess costs of repair or replacement.

Section 7.04 Association as Attorney-In-Fact. Each owner, by ownership of an interest in the Property, or any portion thereof, shall be deemed to have irrevocably appointed the Association as their true and lawful attorney-in-fact to act in connection with the following:

(a) The Association as said attorney-in-fact shall have full power and authority for the purpose of dealing with the Common Area upon its partial or complete destruction. Without limiting the generality of the foregoing, the Association, as attorney-in-fact, shall have full and complete authorization, right and power to make, execute, and deliver any contract, deed, or other instrument with respect to the interest of any Owner which is necessary or appropriate to exercise

the power herein granted. The Association shall have full authority, right, and power, as attorney-in-fact, to cause any repair and restoration of the common Area permitted or required pursuant to this Declaration or the Bylaws of the Association.

(b) The Association as said attorney-in-fact shall also have the full power and authority to purchase and maintain a master policy of fire and extended coverage, vandalism, and malicious mischief and liability Insurance (the "Policy") covering the Common Areas. Without limiting the generality of the foregoing, the Association shall have full and complete authorization, right, and power to collect and remit premiums for the Policy, to collect proceeds and to distribute the same to the Association, Owners, and their respective mortgagees (subject to the provisions of this Declaration and the Bylaws) as their interests may appear, to execute all documents and to do all things on behalf of such Owners and the Common Area as shall be necessary or convenient to the accomplishment of the foregoing; and any insurer may deal exclusively with the Association in regard to such matters. Notwithstanding the foregoing, there may be named as an insured under the Policy, on behalf of the Association, the Association's authorized representative, including any trustee with whom the Association enters into an insurance trust agreement or any successor to such trustee, who shall, subject to the terms of such insurance trust agreement, have exclusive authority to negotiate losses under the Policy.

(c) The Association as said attorney-in-fact shall have the full power and authority to represent the Owners in any condemnation proceedings or in negotiations, settlements, and agreements with the condemning authority for the acquisition of the Common Area or any part thereof by eminent domain. Without limiting the generality of the foregoing, the Association shall have the full authority, right, and power, as attorney-in-fact, to enter into settlement agreements with the condemning authority, to collect condemnation awards and distribute the same to the Association, the Owners and their respective mortgagees (subject to the provisions of this Declaration and the Bylaws) as their interests may appear, and to execute all documents and to do all things on behalf of such Owners, the Association, and their respective mortgagees as shall be necessary to the accomplishment of the foregoing; and any condemning authority may deal exclusively with the Association in regard to such matters.

Section 7.05 Destruction of Improvement on Individual Estates. Each Owner agrees that in the event of destruction (total or partial) to the improvements on any such Owner's Estate due to fire or any other cause, such Owner will either (i) commence all necessary repairs or reconstruction, or (ii) complete removal of the damaged improvements, within four (4) months of the date that the damage occurs and to complete such repairs, reconstruction or removal within a reasonable time from the Commencement of such work. Repairs, reconstruction or complete removal of damaged improvements may be commenced more than four (4) months after the date of occurrence of damage if the delays in commencement are caused by factors (other than financial inability) beyond the reasonable control of the Owner of the damaged improvements. Once repairs or reconstruction are commenced, such repairs or reconstruction shall be pursued and completed in a continuous and diligent manner, subject to delays (other than financial inability) which are beyond the reasonable control of the Owner of the damaged improvements.

ARTICLE VIII

USE OF COMMON AREA

The Common Area shall be occupied and used as follows:

Section 8.01 Restricted Actions by Owners. No Owner shall permit anything to be done on or in the Common Area which would violate any applicable public law or zoning ordinance or which will result

in the cancellation of or increase in the premium for any insurance carried by the Association, or which is in violation of any law. No waste shall be committed in the Common Area.

Section 8.02 Damage to the Common Area. Each Owner shall be liable to the Association for any damage to the Common Area caused by the negligence or willful misconduct of such Owner or the family, guests, pets, agents, employees, contractors, or invitees of such Owner.

Section 8.03 Rules of the Board. All Owners, tenants and occupants shall abide by any rules and regulations adopted by the Board of Directors or the Architectural Review Committee. The Board of Directors shall have the power to enforce compliance with said rules and regulations by all appropriate legal and equitable remedies, and an Owner determined by judicial action to have violated said rules and regulations shall be liable to the Association for all damages and costs, including reasonable attorneys' fees. The Bylaws may also provide for disciplinary procedures which may, at the option of the Board of Directors, be implemented to enforce such rules and regulations and to impose penalties for failure to comply with such rules and regulations.

Section 8.04 Suspension of Right to Use Common Area and/or Right to Vote. The Board of Directors may suspend the right of any owner, or such owner's tenants, guests, family members, or licensees to use the Common Area and/or may suspend the right of any Owner to vote during any period of time that such Owner is in default of their obligations pursuant to this Declaration or the Bylaws, or the rules and regulations promulgated by the Board of Directors or the Architectural Review Committee.

ARTICLE IX

USE OF PROPERTY AND ESTATES - PROTECTIVE COVENANTS

The Property (and the improvements situated thereon) shall be constructed, developed, occupied and used as follows:

Section 9.01 Residential Use. Each Estate comprising part of the Property shall be used and occupied for Residential Use only; provided, however, that nothing contained in this Section 9.01 shall be deemed to prohibit or restrict the activities expressly permitted pursuant to Sections 9.10 hereof. Without limitation of the foregoing, no structures or improvements shall be placed on any Lot unless such structures or improvements are associated with a single-family residential dwelling which has been, or will contemporaneously be, constructed on such Lot. Notwithstanding the foregoing, upon receipt of prior approval by the Architectural Control Committee, each Lot owner may erect in the backyard of their Lot no more than one (1) metal or wooden structure to be used solely for the storage of lawn and gardening equipment, tools, and other such items that are typically stored in non-air conditioned environments, provided that such structure is not visible from the street or other public or private thoroughfare. Persons living, sleeping, or otherwise residing in this storage shed for any length of time is strictly prohibited.

Section 9.02 Laws and Ordinances. No owner shall permit anything to be done or kept in any building or on his Estate which will violate any applicable public law or zoning ordinance or which will result in the cancellation of, or increase the premium(s) for, any insurance carried by the Association, or which is in violation of any law or any rule or regulation promulgated by the Board of Directors or the Architectural Review Committee. In the event of a conflict between the restrictions contained herein and the zoning ordinances of the City of College Station, Texas, the more restrictive shall apply. No waste shall be committed in the Common Area.

Section 9.03 Removal of Dirt. The digging of dirt or the removal of any dirt from any Estate is prohibited, except as necessary in conjunction with landscaping, drainage or construction of improvements thereon in accordance with plans previously approved in writing by the Architectural Review Committee.

Section 9.04 Drilling and Mining Operations. Except as expressly permitted hereby, no oil drilling, water drilling or development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Estate, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Estate; and no derrick or other structure designed for use in boring for oil, natural gas or water shall be erected, maintained or permitted upon any Estate. Notwithstanding the foregoing, the extraction of oil, natural gas or other minerals under the Property shall not be prohibited, so long as such extraction is achieved by pooling, unitization, directional or horizontal drilling, or other subsurface procedures which do not involve any use of the surface of the Property or any portion thereof and which do not substantially impair the subjacent support of the Property or any improvements thereon. Furthermore, notwithstanding the foregoing, one or more water wells may be drilled on an Estate, so long as such wells are for commercial purposes or for supply of water for use on property other than such Estate. A derrick, drilling rig and/or other machinery reasonably necessary for the drilling of any such water well on an Estate may be temporarily situated upon such Estate, provided the drilling of such well is diligently and expeditiously pursued and provided such derrick, rig and machinery are promptly removed from such Estate following the use thereof.

Section 9.05 Offensive Activities. No noxious or offensive activity shall be conducted on any Estate nor shall anything be done thereon which is or may become an annoyance or nuisance to the other Estate owners, The Board, in its reasonable discretion, shall determine what constitutes a noxious or offensive activity. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Estate, except that dogs, cats or other household pets may be kept, provided that they are not kept, bred or maintained for commercial purposes and further provided that they do not become an annoyance or nuisance to other Estate Owners.

Section 9.06 Single Family Residential Use. Each Lot (including land and improvements) shall be used and occupied for single-family residential purposes only except as provided in this section. No Owner or other occupant shall use or occupy his Lot or permit the same or any part thereof to be used or occupied, for any purpose other than a private single-family residence for the Owner's Family as described above. As used herein, the term "single-family residential purposes" shall be deemed to prohibit specifically, but without limitation, the use of Lots for duplex apartments, garage apartments or other apartment use. No trade or business may be conducted in or from any Lot, except that an Owner or occupant may conduct business activities at the residence so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the residence; (b) the business activity conforms to all zoning requirements for the Properties; (c) the business activity does not involve regular visitation of the residence by clients, customers, supplies or other business invitees or door-to-door solicitation of residents of the Properties; (d) the business activity is consistent with the residential character of the Properties and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Properties, as may be determined in the sole discretion of the Board. Garage sales, yard sales, moving sales or similar activities may be conducted provided they are not more than two days in duration and no such sales take place more than two times per calendar year on any Lot. The terms "business" and "trade", as used in this provision, shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's Family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time; (ii) such activity is intended to or is not considered a trade or business within the meaning of this Section..

Section 9.07 Clotheslines. No clotheslines may be maintained on any Estate unless completely screened from public view.

Section 9.08 Antennae. No antenna, satellite dish, or tower be affixed to or placed outside of any dwelling on any Estate, except as may be approved by the Architectural Review Committee. Such approval by the Architectural Review Committee may be conditioned upon appropriate screening of such antenna, satellite dish or tower from public view.

Section 9.09 Trash Receptacles and Collection. All trash receptacles shall be screened by fences, trees or shrubbery so as not to be generally visible by, the public, unless otherwise approved by the Architectural Review Committee in writing. Each and every Owner shall observe and comply with any and all regulations or requirements promulgated by the City of College Station, Texas, and/or the Association, in connection with the storage and removal of trash and garbage. All Estates shall at all times be kept in a healthful, sanitary condition. No Estate shall be used or maintained as a dumping ground for garbage, trash, junk or other waste matter. All trash, garbage, or waste matter shall be kept in adequate containers which shall be constructed of metal, plastic or masonry materials, with tightly-fitting lids, and which shall be maintained in a clean and sanitary condition. The immediately preceding sentence shall not be deemed to prohibit the maintenance on an Estate of areas to store and create compost and other organic gardening materials for use on such Estate, so long as such areas are screened by fences, trees or shrubbery so as not to be generally visible to the public or from adjacent Estates. No Estate shall be used for open storage of any materials whatsoever, except that new building materials used in the construction of improvements erected on any Estate may be placed upon such Estate at the time construction is commenced and may be maintained thereon for a reasonable time, so long as the construction progresses without unreasonable delay, until completion of the improvements, after which unused materials shall be promptly either removed from the Estate, or stored in a suitable enclosure on the Estate.

Section 9.10 Temporary Structures and Vehicles. No temporary structure of any kind shall be erected or placed upon any Estate. No trailer, mobile, modular or prefabricated home, tent, shack, barn or any other structure or building, other than the residential structure to be built thereon, shall be placed on any Estate, either temporarily or permanently, and no residence house, garage or other structure appurtenant thereto shall be moved upon any Estate from another location. Except as otherwise expressly permitted hereby, any bus, boat, boat trailer, mobile home, camp mobile, camper, recreational vehicle, commercial truck, inoperable vehicle or any vehicle other than an operating conventional automobile with current registration and a current safety sticker shall, if brought within the Property, be stored, placed or parked within the garage of the appropriate Estate Owner or concealed from view by other Estate Owners, unless the Architectural Review Committee, in its sole discretion, directs or allows otherwise.

Section 9.11 Signs. No sign or signs shall be displayed to the public view on any Estate except that:

(a) Following Initial construction and sale, a dignified "for sale" sign, not more than two (2) political signs, school spirit signs, or security signs of not more than five (5) square feet in size, acceptable to the Architectural Review Committee, may be utilized by the Estate owner of any Estate for the sale of such Estate; and

(b) Notwithstanding anything herein contained to the contrary, any and all signs, if allowed, shall be acceptable to the Architectural Review Committee and shall comply with all sign standards of the City of College Station, Texas, as such standards may be applicable to the Property

Section 9.12 Swimming Pools. No above ground swimming pools shall be permitted except upon the prior written approval of the Architectural Review Committee. All pool service equipment shall be

fenced and, in the case of any Lot, shall be located in either (i) a side yard between the front and rear boundaries of the principal dwelling, or (ii) the rear yard.

Section 9.13 Tennis Courts. No tennis court shall be constructed except upon the prior written approval of the Architectural Review Committee.

Section 9.14 External Sculpture, Gazebos, Greenhouses and Other Structures. No exterior sculpture, fountains, flags, outdoor furnishings, gazebos, pool pavilions, trellises, greenhouses, children's playhouses, treehouses, storage sheds or similar accessories or structures which are within public view or the view of adjacent Estates shall be constructed without the prior written approval of the Architectural Review Committee. Notwithstanding the forgoing, an Owner may display the flag of the United States of America, the State of Texas, an official replica flag of any branch of the United States armed forces, or any other flag that accords with the harmony or character of the Subdivision (as determined in the sole discretion of the Board) without prior approval of the Architectural Review Committee.

Section 9.15 Landscaping, Walls and Fences.

(a) Maintenance of Landscaping and Sprinkler System. Each improved Lot shall have and contain an underground water sprinkler system for the purpose of providing sufficient water to all landscaped areas. The sprinkler system for each Lot shall be designed and installed to adequately irrigate the area (the "Curbside Area") between the boundary of such Lot and the curb of any street which immediately adjoins such Lot. Each owner of an Estate shall be responsible for the proper and adequate irrigation and maintenance of the Curbside Area which immediately adjoins such Estate, except to the extent such irrigation or maintenance is expressly undertaken by the Association. Weather permitting, areas appurtenant to buildings shall be fully landscaped within ninety (90) days from the date the building is substantially completed, or as soon thereafter as may be reasonably possible. Each Owner of an Estate shall be responsible for the landscaping and maintenance of such Estate and the landscaped areas located between such Estate and adjacent streets unless maintenance responsibility and an easement for such is conveyed to the Association and accepted by it.

(b) Fences.

(i) No fence, wall or hedge shall be erected, placed or altered on any Estate without the approval of the Architectural Review Committee. All clotheslines, wood piles, tool sheds, air-conditioning equipment, sanitation facilities or other reserve facilities must be enclosed or screened with fences, walls or landscaping, as may be required by the Architectural Review Committee, so as not to be generally visible by the public unless otherwise approved by the Architectural Review Committee in writing.

(ii) Screening walls shall be incorporated into and be harmonious with the overall landscaping plan developed for the Property. Without limitation of the foregoing, the Architectural Review Committee may prohibit the placement of privacy fences or stockade-type fences on portions of Lots which abut against open space areas or Common Area or which are visible from public streets.

(iii) No chain link, wire or other open fencing will be allowed unless expressly approved by the Architectural Review Committee. All wood portions of any fence shall be comprised of cedar or another wood specifically approved in writing by the Architectural Review Committee. Except as specifically approved in writing by the Architectural Review Committee, no fence, including, without limitation, any privacy fence, shall be placed or

constructed in the front yard of any Lot or closer to the public street serving such Lot than the front of the residence located on such Lot.

(iv) No fence, wall or hedge shall exceed eight (8) feet in height without the prior approval of the Architectural Review Committee unless specifically required by the City of College Station, Texas.

(v) Given the great variety of potential fencing and screening configurations and materials, it is understood that the Architectural Review Committee may, from time to time, at its sole discretion, permit the construction of fences or walls which are in variance with the provisions of this Section 9.15(b) where, in the sole opinion of the Architectural Review Committee, the fence or wall is an integral part of the architectural style or design of the associated structure.

(c) Retaining Walls. Retaining walls may be employed to achieve even grades for swimming pools, driveways or foundations. The design, location and composition of all retaining walls shall be subject to approval by the Architectural Review Committee. Such retaining walls must be uniform in height with a flat top and must be constructed of materials which are consistent with the overall appearance of the associated structures. Any retaining wall with a height in excess of four (4) feet shall be constructed in accordance with plans and specifications prepared and sealed by a licensed professional engineer. No railroad ties or landscape timber shall be utilized in any areas which are within public view.

Section 9.16 Exterior Lighting. No exterior light shall be installed or maintained within the Property, which light is found to be objectionable by the Architectural Review Committee. Upon being given notice by the Committee that any exterior light is objectionable, the Owner of the Estate on which same is located will immediately remove said light or shield such exterior light in such a way that it is no longer objectionable.

Section 9.17 Setback Lines. All structures constructed on any portion of the Property shall comply with the then applicable planning and zoning codes of the City of College Station, Texas with respect to front, side and rear setback lines (without allowance for variances).

Section 9.18 Construction Standards. All residential structures shall meet the following requirements (except as may be otherwise permitted by approval of the Architectural Review Committee):

(a) Roofs. The use of various roofing materials within the Property shall be permitted; however, no roofing material shall be used without first obtaining the Architectural Review Committee's approval of same. All roofing materials shall be of high grade and quality and consistent with the exterior design, color and appearance of other improvements within the Property. The roof pitch on all structures constructed or placed on any Lot shall be five (5) feet by twelve (12) feet or steeper.

(b) Exterior Building Materials. Exterior building materials and colors must be approved by the Architectural Review Committee prior to installation. In addition, the exterior of improvements shall conform to the following:

(i) Improvements shall not be adorned with stylistic ornamentation or details that are out of character with the community image.

(ii) Exterior wall surface materials shall be limited to two approved materials, excluding trim, unless otherwise approved in writing by the Architectural Review Committee.

(iii) Brick exterior walls must be of hard fired face brick.

(iv) Stucco exterior portions, to the extent permitted by the Architectural Review Committee, shall be the traditional three (3) coat process unless another process is specifically approved by the Architectural Review Committee.

(v) Chimneys shall be clad in brick, stone or other materials approved in writing by the Architectural Review Committee. No bare metal flume shall be permitted.

(vi) The exterior walls of each building constructed or placed on a Lot, exclusive of glass areas, shall be comprised, in the aggregate, of at least seventy-five percent (75%) brick, brick veneer, stone, stone veneer or masonry.

(c) Mailboxes. Housing for mailboxes shall be architecturally integrated with the individual residential project and shall be of similar construction, materials, design and form to said residential project. Any street side individual or dual service mail boxes shall be clad with brick, stone or other approved exterior material identical to the house(s) being served.

(d) Screening of Service Equipment. All exterior utility meters, transformers and other exterior mechanical equipment must be screened from view by other Estate Owners in a manner approved by the Architectural Review Committee. No roof mounted mechanical equipment shall be permitted unless properly screened from public view or otherwise approved by the Architectural Review Committee.

(e) Utilities

(i) Improvements situated on an Estate shall be connected to the water and sewer lines as soon as practicable after same are available at the Estate boundary line. No privy, cesspool or septic tank shall be placed or maintained upon or in any Estate. The installation and use of any propane, butane, LP Gas or other gas tank, bottle or cylinder of any type, shall require the prior written approval of the Architectural Review Committee.

(ii) All telephone, electric, cable or other service lines shall be installed underground and shall meet all requirements of the City of College Station, Texas.

(iii) Grading plans shall be submitted for approval to the Architectural Review Committee prior to commencement of construction.

(f) Paint. Painted portions of all improvements and other structures on each Estate shall be repainted by the Owner thereof at his sole cost and expense as often as is reasonably necessary to insure the attractiveness and aesthetic quality of such Estate and such improvements and structures. Notwithstanding anything to the contrary contained herein, the approval of the Architectural Review Committee shall not be required for such repainting so long as neither the color scheme nor the arrangement of the colors of any improvements, nor the color of any paint thereon is altered; but prior written approval by the Architectural Review Committee shall be required with respect to any change in the exterior colors of any improvements or the arrangement of such exterior colors from the colors or arrangement previously approved by the Architectural Review Committee.

(g) Construction period. Once commenced, construction shall be diligently pursued to the end that it may not be left in a partially completed condition any longer than reasonably necessary.

(h) Garages. The principal dwelling on any Lot shall provide attached or detached garage space for a minimum of two (2) conventional automobiles. Garages for four (4) or more automobiles shall be permitted only with the prior written approval of the Architectural Review Committee. Each garage shall include one or more doors; and no carports or similar open enclosures shall be permitted on any Lot. The immediately preceding sentence shall not be deemed to prohibit porte-cocheres which are included in addition to, and not as a substitute for, the garage on any Lot. No garage shall be converted into living area for the associated residence, or otherwise architecturally altered, without the prior written consent of the Architectural Review Committee.

(i) Consideration of Other Properties. In connection with review by the Architectural Review Committee of the design, colors, and composition of exterior building materials, the Architectural Review Committee may consider the conformity of such materials to those in structures located on other Estates and the similarity of such materials to those in structures located on adjacent or nearby Estates; and the Architectural Review Committee may refuse to approve the design, colors or composition proposed for the exterior of any structure (notwithstanding previous approval by the Architectural Review Committee of identical or similar materials) if the Architectural Review Committee determines that the color, materials and/or composition of the proposed exterior materials are not generally compatible with the structures located on nearby Estates or that the proposed exterior materials are too similar in design, color, composition or general appearance to those of structures located on adjacent or nearby Estates.

(j) Solar Equipment. If an Owner desires to use solar panels or other solar equipment in connection with the use of any Lot, the location and installation design thereof shall be submitted to the Architectural Control Committee and approval of such design, including the aesthetics thereof, shall be required before construction may begin. If mounted on the roof, the panels must be parallel to the roofline conforming to the slope of the roof and not extend beyond the edge of the roof. The panel frame, piping, wiring and supports must be silver, bronze or black tone materials commonly available in the marketplace. If not roof mounted, the solar equipment must be no taller than the top of the fence line and be shielded from view from the street or adjoining property. Solar equipment shall not be installed in such a way that would void material warranties.

(k) Windows. No "burglar bars," steel or wrought iron bars, or similar fixtures, whether designated to be decorative, security or other for other purposes, shall be installed on the exterior of any windows or doors of any dwelling. Sheets or similar temporary window treatments may be used for a short time after taking occupancy of a dwelling, provided they are removed and replaced with permanent window treatments within a reasonable time, not to exceed fourteen (14) days after taking occupancy of the dwelling. Foil shall not be used as window coverings at any time.

(l) Rain Harvesting Devices. Property owners may install rain harvesting devices on their Lot provided they meet the following architectural requirements. The devices may not be located closer to the street than the front building lines. The devices may not be a color different from the home's color scheme as determined by the Architectural Control Committee. The device may not display language or content that is not typically displayed as manufactured. The device must be less than 6 feet in height and shielded from view from the street or adjoining property.

Section 9.19 Failure to Maintain Estate. If, at any time, an Owner of any Estate shall fail to control weeds, grass and/or other unsightly growth, the Association shall have the authority and right to go

onto such Estate for the purpose of mowing and cleaning such Estate and shall have the authority and right to assess and collect from the Owner of such Estate the expenses of mowing or cleaning such Estate on each respective occasion of such mowing or cleaning. If, at any time, weeds or other unsightly growth on the Estate exceed six inches (6") in height, or nine inches (9") with respect to an undeveloped Tract, the Association shall have the right and authority to mow and clean the Estate, as aforesaid. The assessments authorized pursuant to this Section 9.19, together with interest thereon at the lesser of eighteen percent (18%) per annum or the highest lawful rate from the date of demand therefor until paid, and costs of collection thereof, shall be a charge on the land and shall be a continuing lien upon the Estate against which each such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof, shall also be the continuing personal obligation of the person who was the Owner of such Estate at the time when the assessment occurred. Each and every owner of any Estate, by the acceptance of a deed or other conveyance of such Estate shall thereby covenant and agree to pay such assessment. The lien securing any such assessment shall be subordinate and inferior to the lien of any bona fide mortgage or deed of trust (and any renewals, modifications or extensions thereof) existing prior to the date written notice of such assessment is recorded in the Real Property Records of Brazos County, Texas.

Section 9.20 Single-Family Residential Use. Except as expressly permitted by Sections 9.10 hereof, no building or structure shall be erected, altered, placed or permitted to remain on any Lot, other than a single-family dwelling and associated structures approved by the Architectural Review Committee, servant's quarters associated therewith and a private garage for two (2) or more automobiles. No building or structure on any Lot shall exceed two and one-half (2 ½) stories in height, exclusive of basement areas.

Section 9.21 Additional Construction Standards for Improvements Constructed on Lots. Notwithstanding anything to the contrary contained herein, the following restrictions and standards shall apply to improvements constructed on Lots contained within the real property described on Exhibit "A" to this Declaration (the "Original Property"); but, notwithstanding anything to the contrary contained In this Declaration, the restrictions and standards set forth in this Section 9.21 shall apply only with respect to improvements constructed on Lots contained within the Original Property and shall not apply to any other property which is subsequently subjected to this Declaration pursuant to any Supplemental Declaration:

(a) **Minimum Floor Space.** No residential dwelling constructed on any of the Lots identified below shall contain a floor area (exclusive of all porches, garages and breezeways attached to such dwelling, and exclusive of servant's quarters which are not contiguous to the main quarters of the residence), determined using measurements to the outside face of the applicable walls or windows, which is smaller than the applicable minimum number of square feet set forth below:

<u>Lots</u>	<u>Minimum Area</u>
Block 24, Lots 1 through 9	1,800 square feet, at least 1,200 feet
Block 25, Lots 1 through 7	of which shall be contained within
Block 26, Lots 1 through 8	first floor of such dwelling
Block 27, Lots 1 through 12	

The Lot designations and street references set forth in this Article IX and in other portions of this Declaration shall mean and refer to the designations for such Lots set forth on the Final Plat (the "Plat") for Woodcreek Section Nine, as recorded in Volume 3079, Page 201, of the Official Records of Brazos County, Texas, as such Final Plat may be amended, supplemented or superseded from time to time.

(b) Front Setback. No portion of any structure or dwelling constructed on Lots 1 through 7, Block 25, shall be located nearer than fifteen (15) feet to the front boundary of such Lot; and no portion of any structure or dwelling constructed on any Lot in Blocks 24, 26 or 27 shall be located nearer than twenty-five (25) feet to the front boundary of such Lot. As used in the immediately preceding sentence, the "front boundary" of any Lot shall mean the boundary of any Lot which borders on a public or private street; provided, however, where a Lot borders on more than one public or private street, the Architectural Review Committee shall determine which boundary of such Lot constitutes a "front boundary" of such Lot for purposes of this Section 9.21(b).

(c) Rear and Side Setbacks. No portion of any structure or dwelling constructed on any Lot shall be located nearer to the rear or side boundaries of such Lot than is permitted by the applicable building code or zoning code of the City of College Station, Texas, without allowance for variances.

(d) Residence Orientation. The orientation of the principal residential dwelling on any Lot shall be subject to the approval of the Architectural Review Committee. The Architectural Review Committee shall determine which face of a residence constitutes the front of such residence, for purposes of applying this Section 9.21(d). Garages for the residences on Lots 1 through 7 of Block 25 shall face the alley behind such Lots and shall be serviced by rear driveways entering from such alley. The residences on Lot 9, Block 24, Lot 1, Block 27 and Lots 1 and 8, Block 26 shall not face Stonebrook Drive; nor shall the driveways for such residences enter such Lots from Stonebrook Drive.

Section 9.22 Subdivision. No Lot may be subdivided into two or more lots.

ARTICLE X

MORTGAGEE PROTECTION

Section 10.01 Priority of Mortgage. Notwithstanding any other provision of this Declaration, a breach of any of the conditions contained in this Declaration by any Owner or any re-entry by reason of such breach, shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value and covering an Estate or any part thereof; provided, however, that in no event shall the existence of any mortgage or deed of trust diminish or in any way preclude the exercise of such right of re-entry, or the exercise of any other available remedies by the Association as a result of any such breach. Any lien which the Association may have on any Estate for the payment of Assessments or other payments attributable to such Estate will be subordinate to any lien or security interest of any bona fide deed of trust or mortgage on the Estate recorded prior to the date written notice of such Assessments or other payments is recorded in the Real Property Records of Brazos County, Texas.

Section 10.02 Financial Information. Upon prior written request to the Association, any lender holding a mortgage or deed of trust covering any portion of the Property is entitled to: (a) inspect the books and records of the Association during normal business hours; and (b) receive an unaudited annual financial statement of the Association.

ARTICLE XI

MAINTENANCE

Section 11.01 Duty of Maintenance. Owners and occupants (including lessees) of any Estate shall jointly and severally have the duty and responsibility, at their sole cost and expense, to keep the Estate so owned or occupied, including buildings and improvements, in a well-maintained safe, clean and attractive condition at all times. Such maintenance includes, but is not limited to, the following:

- (a) Prompt removal of all litter, trash, refuse and waste;
- (b) Lawn mowing on a regular basis;
- (c) Tree and shrub pruning;
- (d) Watering landscaped areas;
- (e) Keeping exterior lighting and maintenance facilities in working order;
- (f) Keeping lawn and garden areas alive, free of weeds, and attractive;
- (g) Keeping parking areas and driveways in good repair;
- (h) Complying with all government health and police requirements;
- (i) Repair of exterior damages to improvements;
- (j) Repainting of applicable improvements; and
- (k) Replacement of dead landscaping to its previous condition, or in accordance with new landscaping plans approved by the Architectural Review Committee.

Section 11.02 Enforcement. If, in the opinion of the Association, any such Owner or occupant has failed in any of the foregoing duties or responsibilities prescribed in Section 11.01, then the Association may give such person written notice of such failure and such person must within ten (10) days after receiving such notice, perform such duties and responsibilities or make arrangements with the Association for making the repairs and maintenance required. Should any such person fail to fulfill this duty and responsibility within such period, then the Association, through its authorized agent or agents, shall have the right and power to enter onto the applicable Estate and perform such care and maintenance without any liability for damages for wrongful entry, trespass or otherwise to any person. The owners and occupants (including lessees) of any part of the Property on which such work is performed shall jointly and severally be liable for the cost of such work and shall promptly reimburse the Association for such cost if such Owner or occupant shall fail to reimburse the Association within (30) days after receipt of a statement for such work from the Association, then said indebtedness, together with interest thereon at the lesser of eighteen percent (18%) per annum or the highest lawful rate, from the date of demand therefor until paid, and the costs of collection thereof (including, without limitation, reasonable attorney's fees), shall be a debt of all of said persons jointly and severally, and shall constitute a lien against that Estate on which said work was performed. In accordance with the provisions of Section 4.05 hereof, and without limitation of any other available remedies, the Board of Directors shall have the right to levy a special individual assessment against the Owner of any Estate for any costs or expenses payable by such Owner or such Owner's tenant pursuant to this Section 11.02.

ARTICLE XII

ARCHITECTURAL REVIEW COMMITTEE

Section 12.01 Architectural Review Committee. The Association will have an Architectural Control Committee comprised of three (3) voting members (the "Voting Members") elected annually by the Members at the annual meeting of the Association. There is no limit as to the number of times a Voting Member may be reelected. The three (3) individuals receiving the highest vote totals, inclusive of both in

person and proxy votes, shall be elected as the Voting Members. Voting Members must be Members of the Association and may not be (1) a current member of the Board of Directors, (2) a current spouse of a member of the Board of Directors, or (3) a person residing in the household of a current member of the Board of Directors. In addition to the Voting Members, additional nonvoting members may serve in an advisory capacity as the Voting Members deem appropriate. In the event of death or resignation of any member or members of the Architectural Control Committee, the remaining members of the Architectural Control Committee shall appoint a successor member or members, and until such successor member or members shall have been so appointed, the remaining member or members shall have full right, authority and power to carry out the functions of the Architectural Control Committee as provided herein, or to designate whomsoever with like right, authority and power.

Each member of the Committee shall act reasonably and in good faith in performing his duties and obligations under this Article XII.

Section 12.02 Basis of Approval. No building, structure, fence, wall, sidewalk, walkway or improvement of any kind or nature shall be erected, placed or altered on any Estate until all final plans and specifications and a plot plan have been submitted to and approved in writing by the Committee, or a majority of its members, as to:

- (a) quality of workmanship and materials; proper facing of main elevation with respect to nearby streets;
- (b) conformity and harmony of the external design, color, type and appearance of exterior surfaces and landscapes;
- (c) location with respect to topography and finished grade elevation, and relationship between and effect of location and use on neighboring Estates and improvements situated thereon;
- (d) drainage arrangements; and
- (e) compliance with the other standards set forth within this Declaration (and any amendments hereto).

The Committee is authorized and empowered to consider and review any and all aspects of construction, construction of other improvements and location, quality and quantity of landscaping on the Estates, which may, in the reasonable opinion of the Committee, adversely affect the living enjoyment of one or more Owner(s) or the general value of the Property. The Committee is permitted to consider technological advances in design and materials and such comparable or alternative techniques, methods or materials may or may not be permitted, in accordance with the reasonable opinion of the Committee. The Committee shall have the authority to make final decisions in interpreting the general intent, effect and purpose of the restrictions and covenants described in Article IX hereof. Unless otherwise expressly provided in this Declaration, wherever the approval of the Committee is required by the provisions of this Declaration, such approval shall mean the prior written approval of the Committee. Each review and approval or disapproval by the Architectural Control Committee is an independent decision. Previous approvals or disapprovals by the Architectural Control Committee do not set a precedent for what will or will not be approved in future requests.

Any improvements constructed in accordance with plans and specifications approved by the Committee in accordance with its then applicable standards and requirements shall not be required to be changed because such standards are thereafter amended. However, in the event the Committee approves plans and specifications for any improvement and construction of such improvement is not commenced

within one (1) year after the date of such approval, such improvement shall not be constructed unless and until the plans and specifications for such improvement are resubmitted to and approved by the Committee. Any such resubmission and approval be made upon the same basis as initial submission of plans and specifications for an improvement; and such approval shall be based upon the then applicable standards and requirements of the Committee, notwithstanding that such standards and requirements may have changed from those which were applicable when the plans and specifications for such improvement were initially approved. The Committee shall review and act upon submitted plans and specifications in accordance with the applicable time periods specified in Sections 12.04 and 12.06.

Section 12.03 Definition of Improvement. For purposes of this Article XII, "improvement" shall mean and include all buildings and roofed structures, fences, walls, poles, driveways, ponds, lakes, water wells, swimming pools, tennis courts, signs, mailboxes, exterior lighting fixtures (other than street lights), changes in any exterior color or shape, glazing of exterior windows with mirrored or reflective glass or changes in the color or style of any existing window glazing, street, grading, drainage, utilities, walks, walkways and any new construction or exterior improvement significantly altering the appearance of any of the foregoing. "Improvement" does not include public streets, street lights, utilities, walks, walkways, garden shrub replacements or tree replacements or any other replacement or repair of any magnitude which ordinarily would be expenses in accordance with generally accepted accounting principles and which does not change exterior colors or exterior appearances. "Improvement" does include both original improvements and all later changes and improvements.

Section 12.04 Preliminary Plan Submissions. The Architectural Review Committee is authorized and empowered to and shall consider, review, and comment on preliminary plans submitted on an informal basis to assist Owners, developers, and prospective purchasers of portions of the Property in complying with applicable covenants and restrictions and to assist in the completion of feasibility studies undertaken by such persons or entities. If the preliminary plans and specifications are approved by the Committee, the Committee shall so notify the Estate Owner or his designated representative. If not approved by the Committee, the Committee shall furnish the Estate owner or his designated representative with a reasonable statement of items found not to comply with the provisions of this Article XII. The Committee's approval or disapproval, as required herein, shall be in writing. If the Committee fails to approve or disapprove such plans and specifications within fourteen (14) days after the date of submission, disapproval of the matters submitted shall be presumed. Comments on and approvals of preliminary plans and specifications shall be binding upon the Architectural Review Committee, provided that final plans and specifications consistent with such preliminary plans are submitted within ninety (90) days of such preliminary comment or approvals.

Section 12.05 Plan Submissions. Final plans and specifications shall be submitted to the Committee prior to the construction of any improvements on an Estate, which plans and specifications shall include, to the extent applicable to the proposed improvements as determined by the Architectural Review Committee, plans complying with the requirements of this Section 12.05 and the other provisions of this Declaration. Such plans shall include:

- (a) A plat showing the location of all proposed improvements, structures, patios, mailboxes, swimming pools, driveways, parking areas and structures, fences and walls. Estate drainage provisions shall be included as well as cut and fill details if any appreciable change in the Estate contour is contemplated.
- (b) Exterior elevations of all proposed buildings and structures.
- (c) A description of exterior materials.

- (d) A depiction of all walkways, fences and walls, and elevation changes.
- (e) Parking areas and driveway plans.
- (f) Screening including size, location and method.
- (g) Dimensional floor plan of all enclosed spaces including dwelling areas and any garages or parking facilities.
- (h) Such other matters as may be required by the then applicable zoning or building codes of the City of College Station, Texas or any other municipal or governmental authority having jurisdiction over the Property.
- (i) A plan showing the location and screening of all exterior utility meters, transformers, and other mechanical equipment.
- (j) Any other data or information requested or deemed reasonably necessary by the Architectural Review Committee, including, without limitation, samples of proposed construction materials.

The Committee may defer the date for submission of any of the matters described in Section 12.05 by notice in writing to the person or entity requesting such deferral of the submission date. However, such deferral shall not constitute a waiver of the applicable submission, absent an express written waiver of such submission by the Architectural Review Committee.

Section 12.06 Approval Procedure. At such time as the final plans and specifications are approved by the Committee, the Committee shall send notice of such approval to the Estate owner or his designated representative, subject to such terms and conditions as the Committee may deem appropriate. If not approved by the Committee, the Committee shall send to the Estate owner or his designated representative a reasonable statement of items found not to comply with the provisions of this Article XII or other applicable provisions of this Declaration. The Committee's approval or disapproval, as required herein, shall be in writing. If the Committee fails to approve or disapprove such plans and specifications within fourteen (14) days after the date of submission, disapproval of the matters submitted shall be presumed. Any material modifications or changes to the approved set of plans and specifications must again be submitted to the Committee for its inspection and approval.

The Committee is authorized and empowered to condition its approval for plans and specifications submitted to the Committee upon changes noted by the Committee or upon subsequent approval by the Committee of certain items noted by the Committee. In such case, such plans and specifications shall be deemed to have been approved by the Committee subject in all respects to the conditions and subsequent approvals so noted by the Committee.

All improvements approved by the Committee shall be diligently pursued to completion after the commencement of construction thereof.

A decision by the Architectural Control Committee denying the plans, application, or request by an Owner may be appealed to the Board of Directors. The Board of Directors shall hold a hearing on the appeal not later than the 30th day after the date the Board receives the Owner's request for a hearing and shall notify the Owner of the date, time, and place of the hearing not later than the 10th day before the date of the hearing. The Board of Directors may affirm, modify, or reverse, in whole or in part, any decision of the Architectural Control Committee as consistent with this Declaration. The appealing Owner is only entitled to one appeal.

Section 12.07 Design Guidelines. The Committee may, from time to time, publish and promulgate Design Guidelines, and such Design Guidelines shall be explanatory and illustrative of the general intent of the development of the Property and are intended as a guide to assist the Architectural Review Committee in policy and in reviewing plans and specifications. In any event, such Design Guidelines shall not be binding upon the Committee and shall not constitute, in every event, the basis for approval or disapproval of plans, specifications and other materials submitted to the Committee for approval.

Section 12.08 Variances. Upon submission of a written request for same, the Committee may, from time to time, in its sole discretion, permit Owners to construct, erect, or install improvements which are in variance from the standards which are provided in this Declaration or which may be promulgated in the future. In any case, however, such variances shall be in basic conformity with and shall blend effectively with the general architectural style and design of the community. Written requests for variances shall be deemed to be disapproved if the Committee has not expressly and in writing, approved such request within fourteen (14) days of the submission of such request. No member of the Committee shall be liable to any Owner for any claims, causes of action or damages arising out of the grant of any variance to any other Owner. Each request for a variance submitted hereunder shall be reviewed separately and apart from other such requests and the grant of a variance to any Owner shall not constitute a waiver of the Committee's right to strictly enforce the covenants, restrictions and architectural standards provided hereunder, against any other Owner.

Section 12.09 Nonconforming and Unapproved Improvements. The Association may require any Owner to restore such Owner's improvements to the condition existing prior to the construction thereof (including, without limitation, the demolition and removal of any approved improvement) if such improvements were commenced or constructed in violation of this Article XII. In addition, the Association may, but has no obligation to, cause such restoration, demolition and removal and levy the amount of the cost thereof as a special individual assessment against the Estate upon which such improvements were commenced or constructed.

Section 12.10 No Liability. Neither the Association, the Committee, the Board of Directors, nor the officers, directors, members, employees and agents of any them, shall be liable in damages to anyone submitting plans and specifications to any of them for approval, or to any Owner of property affected by these restrictions by reason of mistake in judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications. Every person who submits plans or specifications, and every Owner of any portion of said property agrees that he will not bring any action or suit against the Association, the Committee, the Board of Directors, or the officers, directors, members, employees and agents of any of them, to recover any such damages and hereby releases, remises, and quitclaims all claims, demands and causes of action arising out of or in connection with any such judgment, negligence or nonfeasance and, to the greatest extent permitted by applicable law, hereby waives the provisions of any law which provides that a general release does not extend to claims, demands and causes of action not known at the time the release is given.

Section 12.11 Certificate of Compliance. Within thirty (30) days after actual receipt by the Committee of an Owner's request for same and upon substantial completion of improvements, the plans and specifications for which are subject to review by the Committee, the Committee shall inspect such improvements, and if the improvements are constructed, erected, placed, or altered in accordance with approved plans and specifications, the Committee shall issue a Certificate of Compliance with respect to such improvements. No construction or improvement on any Estate shall become occupied (as defined by the City of College Station, Texas in its Certificate of Occupancy permit) without the issuance of a Certificate of Compliance by the Committee.

Section 12.12 Appointment and Designation. The Committee may from time to time, by the vote or written consent of a majority of its members, delegate any of its rights or responsibilities hereunder to one or more duly licensed architects, to other qualified persons or to subcommittees of the Committee, which shall have full authority to act on behalf of said Committee in all matters delegated.

Section 12.13 Review Fee and Address. Any plans and specifications shall be submitted in writing for approval, together with a reasonable processing fee as set by the Committee. The review fee shall cover only the cost of, employing non-affiliated consultants to review plans and specifications, as well as incidental expenses associated with the review process. The address of the Committee shall be the registered office of the Association, from time to time reflected in the offices of the Secretary of the State of Texas or such other address as may be designated by the Association from time to time. Such address shall be the place for the submittal of any plans and specifications.

Section 12.14 Inspection. Any member or agent of the Committee may from time to time at any reasonable hour or hours enter and inspect all or any part of the grounds and exterior portions of the Estate of such Owner to confirm improvement or maintenance in compliance with the provisions of this Declaration; provided, however, that in no event shall any member or agent of the Committee be entitled to enter or inspect the interior of the residence or other improvements located on an Estate.

Section 12.15 Governmental Authorities. No improvement or addition or applicable change or alteration thereof shall be constructed, erected, placed, altered, or maintained on any of the Property, including the Common Area, which is in violation of any of the laws or ordinances of the City of College Station, Texas, or any other applicable governmental laws, rules, or regulations. Notwithstanding anything to the contrary herein contained, the Association, the Committee, the Board of Directors and their respective officers, directors, agents, and employees shall have no obligation to enforce or to report the violation of any such law, ordinance, rule, or regulation.

Section 12.16 No Liability for Design Defects. Plans and specifications are not reviewed or approved by the Committee for adequacy engineering or structural design or quality of materials, and by approving such plans and specifications, neither the Committee, the Association, the Board of Directors, nor any of their respective officers, directors, members, employees, or agents assumes liability or responsibility therefor, or for any defect in any structure constructed from such plans and specifications.

ARTICLE XIII

EASEMENTS

Section 13.01 Ingress and Egress by the Association. Full rights of reasonable ingress and egress shall be had by the Association and the Committee at all times over and upon each Estate for the maintenance and repair of each Estate in accordance with the provisions hereof, and for the carrying out by the Association, and the Committee of their respective functions, duties and obligations hereunder; provided, that any such entry by the Association or the Committee upon any Estate shall be made with as little inconvenience to the Owner as practical, and any damage caused thereby shall be repaired by the Association or the Committee, as applicable, at the expense of the Association or the Committee, as applicable.

Section 13.02 Easements for Encroachment. There shall be reciprocal appurtenant easements for encroachment as between each Estate and such portion or portions of the Common Area adjacent thereto, or as between adjacent Estates due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of this Declaration) to a distance

of not more than two (2) feet, as measured from any point on the common boundary between each Estate and the adjacent portion of the Common Area or as between adjacent Estates, as the case may be, along a line perpendicular to such boundary at such point; provided, however, in no event shall an easement for encroachment exist if such encroachment occurred due to willful or negligent conduct on the part of an Owner, tenant, or the Association.

ARTICLE XIV

GENERAL PROVISIONS

Section 14.01 Duration. The covenants, conditions, and restrictions of this Declaration shall run with and bind the land subject to this Declaration, and shall inure to the benefit of and be enforceable by the Association and/or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of ten (10) years from the date that this Amended Declaration is recorded in the office of the County Clerk of Brazos County, Texas, after which time said covenants, conditions and restrictions shall be automatically extended for successive periods of ten (10) years, unless an instrument agreeing to abolish such covenants, conditions and restrictions is signed by Owners holding at least seventy-five percent (75%) of the votes of all Class A members (determined in accordance with Section 3.03 hereof), and recorded in the Real Property Records of Brazos County, Texas, at least one (1) year in advance of the effective date of such abolishment. Upon any such abolishment, the terms and provisions of this Declaration shall be of no further force and effect with respect to the period from and after the date of such abolishment.

Section 14.02 Enforcement. Enforcement of these covenants, conditions and restrictions shall be by any proceeding at law or in equity (including, without limitation, an action for injunction or specific performance) against any person or persons violating or attempting to violate them, or to recover damages, or to enforce any lien created by these covenants; and failure by the Association or any Owner to enforce any covenant, condition or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter with respect to the same or any subsequent breach or violation of the applicable covenant, condition or restriction. The Architectural Review Committee, the Board of Directors and/or the Association shall also have the right, but not the obligation, to enforce these covenants and restrictions in accordance with the provisions set forth within this Declaration. In the event the Architectural Review Committee, the Board of Directors and/or the Association employs an attorney in connection with alleged violation by any owner of the terms of this Declaration and is the prevailing party in the applicable legal proceeding, the offending owner shall reimburse the Architectural Review Committee, the Board of Directors and/or the Association, as applicable, for costs, expenses and attorneys' fees incurred in connection with such legal proceeding.

Section 14.03 Limitation of Restrictions on Declarant. [Removed]

Section 14.04 Termination of Responsibility of Declarant. [Removed].

Section 14.05 Owners' Compliance. Each Owner, tenant or occupant of any portion of the Property shall comply with the provisions of this Declaration, and with the decisions, rules and regulations, and resolutions of the Association; and failure to comply with any such provisions, decisions, or resolutions, shall be grounds for an action to recover sums due, for damages and/or fines or for injunctive relief. All agreements and determinations lawfully made by the Association in accordance with the voting procedures established shall be deemed to be binding on all Owners, their successors and assigns.

Section 14.06 Severability. The illegality, invalidity, or unenforceability of any provision of this Declaration under present or future laws shall not affect the other provisions of this Declaration, which shall remain in full force and effect; and this Declaration shall be construed as if such illegal, invalid, or unenforceable provision had never comprised a part of this Declaration. Furthermore, in lieu of such illegal, invalid, or unenforceable provision, there shall be automatically added to this Declaration a provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.

Section 14.07 Headings. The headings contained in this Declaration are for reference purposes only and shall not constitute substantive material for purposes of construing the meaning of the terms and provisions of this Declaration. Except as expressly otherwise set forth herein, references in this Declaration to numbered Articles and Sections refer to the applicable Articles and Sections of this Declaration.

Section 14.08 Notices to Member or Mortgagee. Notice required to be given to any Member, mortgagee or lessee under the provisions of this Declaration shall be deemed to have been properly delivered, whether or not actually received, when deposited in the United States mail, postage prepaid, addressed to the last known address of the person who appears as Member, mortgagee or lessee in the records of the Association at the time of such mailing. In the event that there are multiple Members or lessees with respect to a single Estate, the Association shall be obligated to send notice to only one (1) of the multiple Members or lessees; and notice to one shall be deemed to be notice to all. Multiple owners of an Estate may designate one (1) of their group as the person entitled to notice by so notifying the Association in writing of such person and the address thereof, but if no such person is designated, the Association may notify any one (1) of such multiple owners. Notices of past due assessments, of the intention to institute any of the punitive provisions hereof, of any sanctions to be imposed hereunder or of any violations of this Declaration shall be sent to the affected person or entity by certified mail, return receipt requested, and addressed as aforesaid.

Section 14.09 Disputes. Matters of dispute or disagreement between Owners, or between any owner and the Association, with respect to Interpretation or application of the provisions of this Declaration or the Bylaws, shall be determined by the Board of Directors, whose reasonable determination shall be final and binding upon all Owners.

Section 14.10 Interest. Nothing contained in this Declaration shall authorize the collection of interest in excess of the maximum amount permissible under applicable law. If from any circumstance whatsoever, interest would otherwise be payable in amounts which exceed the maximum lawful rate, the applicable interest payable shall be reduced to the maximum amount permitted under applicable law; and if from any circumstances the Association or any other party shall ever receive pursuant to this Declaration anything of value deemed to be interest by applicable law which is in excess of the maximum lawful amount, an amount equal to any excessive interest shall be applied to the reduction of principal and not to the payment of interest, or if such excessive interest exceeds the unpaid principal balance, such excess shall be refunded to the party paying the same. All interest paid or agreed to be paid under the terms of this Declaration shall, to the extent permitted by applicable law, be amortized, prorated, allocated and spread throughout the full term of the applicable indebtedness so that the interest thereon does not exceed the maximum amount permitted by applicable law. The term "applicable law", as used in this Section 14.10 shall mean applicable laws of the State of Texas or the applicable laws of the United States of America, whichever laws allow the greater rate of interest.

Section 14.11 Minor Corrections. Notwithstanding anything to the contrary contained herein, during the period prior to the fifth (5th) anniversary of the date Declaration is recorded in the Real Property

Records of Brazos County, Texas, Declarant shall have the right, without the joinder of any other party, to amend this Declaration, in order to correct typographical errors and to make other revisions thereto which do not materially and adversely affect the rights or obligations of any other Owner.

Section 14.12 Conflicts. In the event of any conflicts or inconsistencies between the terms of the Articles of Incorporation and the terms of this Declaration or the Bylaws, the terms of the Articles of Incorporation shall control and govern. In the event of any conflicts or inconsistencies between the terms of this Declaration and the terms of the Bylaws, the terms of this Declaration shall control and govern.

Section 14.13 Amendment. This Declaration may be amended by the written consent of Owners of portions of the Property holding at least fifty-one percent (51%) of the total votes of all Class A members.. Any and all amendments to this Declaration shall be recorded in the Real Property Records of Brazos County, Texas.

Section 14.14 Use of Words "Shadowcrest" or "Woodcreek". No Owner, tenant, or licensee of any Owner or occupant of any Estate shall use the words "Shadowcrest" or "Woodcreek" or any combination or derivative thereof in the name of any commercial or residential building or any commercial or residential business or enterprise or in any printed or promotional material without the prior written consent of the Association; provided, however, without such consent, Owners, tenants, licensees, or occupants of any portion of the Property may use the terms "Shadowcrest" or "Woodcreek" in printed or promotional material, where such term is used solely to specify that such Owner's residence is located within the Woodcreek subdivision or on a street which includes the name "Shadowcrest" or "Woodcreek."

Section 14.15 Compliance with FHLMC and FNMA Regulations. The Declarant contemplates that the documents creating and governing the Association and/or this Declaration may be amended to comply (if not in compliance) with all requirements of the Federal Home Loan Mortgage Corporation ("FHLMC") and the Federal National Mortgage Association ("FNMA") pertaining to the purchase or guaranty by FHLMC or FNMA of loans. All Owners therefore agree that, notwithstanding anything to the contrary contained herein, in the event this Declaration, the Bylaws, the Articles of Incorporation or any other documents or instruments governing or creating the Association or the use of Estates within the Property do not comply with the FHLMC or FNMA requirements, the Board of Directors shall have the power, in its discretion, at any time on or before the date which is three (3) years after the date this Declaration is recorded in the Real Property Records of Brazos County, Texas (on behalf of the Association and each and every Owner, without the joinder of any other party), to amend the terms of this Declaration, the Bylaws and the Articles of Incorporation and any other documents or instruments governing or creating the Association or the use of Estates within the Property and/or to enter into any agreement with FHLMC (or its designee) or FNMA (or its designee) reasonably required by FHLMC or FNMA to allow the Property, Association, Bylaws, Articles of Incorporation, this Declaration, and/or any other related documents to comply with such requirements; provided, however, that in no event shall any amendment pursuant to this Section 14.15 (i) permit any additional uses of the Property (other than those currently permitted hereby), (ii) alter the manner in which the votes of the Owners are calculated hereunder, or (iii) alter the manner in which Assessments are determined or allocated among the Owners hereunder.

IN WITNESS WHEREOF, the undersigned, being the President of Shadowcrest Homeowners Association, Inc., acted for by its President, has executed this Declaration, acting and through its duly authorized and empowered officers, to be effective this the ___ day of _____, 2021.

SHADOWCREST HOMEOWNERS ASSOCIATION

By: _____
Gabriel Neal, President

STATE OF TEXAS §

BRAZOS COUNTY §

The foregoing instrument was acknowledged before me on this the ____ day of _____, 2021, by Gabriel Neal, President of the Shadowcrest Homeowners Association, Inc. a Texas corporation, on behalf of said corporation.

Notary Public, State of Texas

EXHIBIT "A"

FIRST AMENDED AND RESTATED DECLARATION OF
COVENANTS AND RESTRICTIONS OF WOODCREEK SECTION IX

Property Address	Homeowner Full Name	Homeowner Signature
1511 Concord Cir	Drew Casey & Jie Fan	_____
9105 Timber Knoll	Grigor & Tatyana Chubaryan	_____
9004 Stonebrook	William & Bohnnie Davis	_____
1505 Concord Cir	John Edwards	_____
9103 Timber Knoll	Deborah Fannin	_____
1525 Concord Cir	Jane Flaherty	_____
9004 Timber Knoll	Derrick & Ann Formby	_____
1515 Concord Cir	Carl Gagliardi III	_____
1528 Concord Cir	Frank & Pat Gilstrap, Jr.	_____
9006 Timber Knoll	Peter Greaves	_____
1526 Concord Cir	Devy Hardeman	_____
9002 Stonebrook	Bobby & Helen Howell	_____
1504 Concord Cir	Christopher Huckelba	_____
1524 Concord Cir	Joshua & Shannon Kesey	_____
1513 Concord Cir	Mariya Khmelenko	_____
9104 Timber Knoll	Colin & Jennifer Killian	_____

1507 Concord Cir	Karen Kirby	_____
1506 Concord Cir	Debra Ann Lange	_____
9100 Timber Knoll	Katharine Long	_____
1522 Concord Cir	Kevin & Kelli Martin	_____
9000 Stonebrook	Brandy McDougal	_____
9101 Timber Knoll	William & Tracy Moritz	_____
1519 Concord Cir	Craig & Andrea Murphey	_____
9002 Timber Knoll	Lee & Kathryn Neal	_____
9100 Stonebrook	Marian Eide & Lawrence Oliver	_____
9000 Timber Knoll	Jagdish & Jasmina Patel	_____
1501 Concord Cir	Richard Pearson	_____
9106 Timber Knoll	Cynthia A Prinz	_____
1502 Concord Cir	Henrik & Cindee Schmiediche	_____
9008 Timber Knoll	Patricia Steele	_____
1521 Concord Cir	Cheryl M. Strange	_____
1523 Concord Cir	Marvin Tate	_____
1517 Concord Cir	Jerome & Jean Trzeciakowski	_____
9102 Timber Knoll	Joseph & Jeanna Vargo	_____
1500 Concord Cir	Erik & Ashlea Weiss	_____
1503 Concord Cir	David & Alison Wilson	_____